

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA,
PLAINTIFF,

v.

HARY GANDY, KP SPENDTHRIFT TRUST,
THROUGH ITS TRUSTEE, MELISSA ANGELA
GANDY, 937385 ONTARIO LIMITED, PATRICK
O'CONNOR & ASSOCIATES, L.P., and
TA ASSOCIATES, L.P.,
DEFENDANTS.

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UNITED STATES' ORIGINAL COMPLAINT

Plaintiff, the United States of America, for its Original Complaint, which is commenced pursuant to Internal Revenue Code [26 U.S.C.] §§ 7401 and 7403, at the direction of the Attorney General of the United States, and with the authorization and at the request of Chief Counsel, Internal Revenue Service, a delegate of the Secretary of the Treasury, alleges as follows:

1. This is an action by the United States against Defendant Hary Gandy, to reduce to judgment his 2007 and 2008 federal income (Form 1040) tax and 2007 civil penalty (OVDI)¹ in the amount of **\$4.9 million**, and for a judicial foreclosure and sale of real property in this district in which Gandy has an interest. The other defendants are joined as parties to this action pursuant to 26 U.S.C. § 7403(b), because they have or may claim an interest in the real property that is the subject of this action.
2. This Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. § 7402.

¹ Offshore Voluntary Disclosure Initiative.

3. Venue is proper in this Court under 28 U.S.C. § 1391(b).

4. Defendant Hary Gandy, a citizen of Canada, is the individual taxpayer, who is the true owner of the subject real property in this district. Mr. Gandy was born in Myanmar, Burma, and he has never been a United States citizen. He resided in the United States as a resident alien during the time his federal tax liabilities accrued, but subsequently relocated to Canada. He is being sued to reduce his **\$4.9 million** federal income (1040) tax and civil penalty (OVDI) debt to judgment, and to foreclose on federal tax liens and sell the real property that is the subject of this action to pay his federal tax liabilities. Mr. Gandy may be served at 3442 Trilogy Trail, Mississauga, Ontario, Canada L5M 0K2.

5. Defendant Melissa Angela Gandy is an individual resident of Dallas County, Texas, and she is the daughter of Defendant Hary Gandy. Ms. Gandy is the purported trustee of the KP Spendthrift Trust (hereafter “the Trust” or “KPST”), also known as the K.P. Spendthrift Trust, and she is being joined as a defendant per 26 U.S.C. § 7403(b), because the Trust has or may claim an interest in the real property that is the subject of this lawsuit. Ms. Gandy may be served at 2342 Hill N Dale Drive, Irving, Texas 75038.

6. Defendant 937385 Ontario Limited is, on information and belief, a Canadian company, whose address is 4810 Dufferin Street, Suite D, Toronto, Ontario, Canada M3H 5S8. On information and belief, 937385 Ontario Limited is a judgment creditor of Defendant Hary Gandy. It is being joined as a defendant pursuant to 26 U.S.C. § 7403(b), because it has or may claim an interest in the real property that is the subject of this lawsuit.

7. Defendant Patrick O’Connor & Associates, L.P. is, on information and belief, a Texas limited partnership. On information and belief, Patrick O’Connor & Associates, L.P. is a judgment creditor of Defendant Hary Gandy. It is being joined as a defendant pursuant to 26 U.S.C.

§ 7403(b), because it has or may claim an interest in the real property that is the subject of this lawsuit.

8. Defendant TA Associates, L.P. is, on information and belief, a Delaware limited partnership. TA Associates is being sued pursuant to 26 U.S.C. § 7403(b), because it has or may claim an interest in the real property that is the subject of this lawsuit, as a judgment creditor of Defendant Hary Gandy.

BACKGROUND AND FACTS

A. TAX LIABILITIES

9. On the September 3, 2012 and September 10, 2012, a delegate of the Secretary of the Treasury made assessments against, and gave notice and demand to, Defendant Hary Gandy, for his unpaid federal income (Form 1040) tax and civil penalty (OVDI) for the tax periods 2007 and 2008. The amounts of Gandy's tax liabilities are shown in the following chart:

Liabilities through 03/15/2018:

Type of Tax	Tax Period	Assm't Date	Assessed Total	Total Interest	Total Penalty	Balance Due
1040	2007	09/10/12	\$2,139,390.77	\$749,813.18	\$344,593.26	\$2,270,080.52
1040	2008	09/10/12	\$127,793.28	\$32,540.67	\$17,699.00	\$135,194.87
CIVP	2007	09/03/12	\$2,360,229.76	\$422,478.56	\$0.00	\$2,496,930.56
Totals			\$4,627,413.81	\$1,204,832.41	\$362,292.26	\$4,902,205.95

TOTAL TAX, INTEREST & PENALTIES OWED BY HARY GANDY\$4,902,205.95
(as of March 15, 2018)

In addition to the total tax, interest, and penalties shown above, Hary Gandy is liable to the United States for interest, penalties, and statutory additions accruing after March 15, 2018, on these tax liabilities, until paid.

10. Despite notice and demand, Hary Gandy has failed to pay his federal tax liabilities stated above.

11. Defendant Hary Gandy's federal tax liabilities are undisputed. He agreed to the assessment and collection of the taxes as part of his participation in the 2009 Offshore Voluntary Disclosure Initiative ("OVDI") regarding unreported foreign-source assets and income. On May 23, 2012, Gandy and his attorney, Elizabeth Copeland, executed an IRS Form 906 Closing Agreement. In this agreement, he waived all rights to IRS Appeals consideration relating to his collection due process rights under 26 U.S.C. §§ 6320 and 6330 and the IRS Collection Appeal Program ("CAP"). This waiver of CAP rights also extended to liens and levies that might arise if the pre-assessed installment agreement signed by Hary Gandy defaulted, and he subsequently did default on this agreement.

B. FEDERAL TAX LIENS

12. Pursuant to 26 U.S.C. § 6321, statutory federal tax liens arose by operation of law on the dates of assessment of Hary Gandy's federal tax liabilities described above, and attached to all property or interests in property of Gandy on the dates of assessment or acquired thereafter. On or about March 4, 2013, a notice of federal tax lien was filed against Hary Gandy, in Bexar County, Texas, to secure payment of Gandy's federal tax liabilities described above. This tax lien attaches to all of Gandy's interests in property, regardless of record title.

13. On March 21, 2014, a nominee notice of federal tax lien was filed against Defendant KP Spendthrift Trust, as nominee, transferee, and/or alter ego of Hary Gandy, which attaches to Hary Gandy's interest in the real property held in the name of KP Spendthrift Trust, identified as CB

5644B, Block W, 111.2 feet, also known as 201 Burr Road, San Antonio, Texas 78209, further described below.

C. HARY GANDY'S PURCHASE OF THE BURR ROAD RESIDENCE

14. On or about August 19, 2008, when Hary Gandy was indebted to the IRS for over two million dollars in federal income tax, he purchased from RHCC Construction Company, Inc. an expensive residence at 201 Burr Road, San Antonio, Texas 78209 ("the Burr Road Residence"), and titled it to the K.P. Spendthrift Trust.

15. Records obtained by the IRS from Wells Fargo Bank indicate \$1,500,000 was wired into Acct# XXXXXX0174 held in the name of KP Spendthrift Trust on August 18, 2008, from a Canadian HSBC account, and \$1,096,102.65 of this amount was then wired to Chicago Title Company on August 19, 2008, as consideration for the purchase of the Burr Road Residence.

16. Despite claims by counsel for Hary Gandy that the source of the funds for the purchase of the Burr Road Residence was Hary Gandy's then elderly (now deceased) mother, Prem Gandy, she denied having any involvement in the KP Spendthrift Trust during a deposition taken in another case.

17. On information and belief, Hary Gandy has used Prem Gandy on other occasions as a conduit or straw person to conduct transactions for his benefit.

18. A second deed on this property was filed in the Bexar County deed records on February 13, 2009; however, the only difference was that the grantee entity was changed from "KP Spendthrift Trust" to "KP Spendthrift Trust, Hary Gandy Trustee". The legal description of the Burr Road Residence is as follows:

The West 110.5 feet of Lot 92, Northbrae Addition, in the City of Terrell Hills, an addition in Bexar County, Texas according to the map or plat thereof, recorded in Volume 642, Page 247, Deed and Plat Records of Bexar County, Texas;

located at 201 Burr Road, San Antonio, Texas 78209. The original warranty deed was recorded on August 20, 2008 at Book 13645, Page 2399, Doc. #20080182264, of the Bexar County, Texas deed records.

19. According to the Bexar County Tax Assessor, this property has a 2017 tax-assessed value of \$1,360,000. Hary Gandy has paid bills for the residence, and he controls the residence. On information and belief, Mr. Gandy has leased the residence to a third party, and he is collecting monthly rents on the residence through his daughter, Melissa Gandy.

20. Title company records pertaining to the conveyance of the Burr Road Residence by RHCC Construction Company, Inc. to the KPST were summonsed by the IRS, and show that real estate documents pertaining to this conveyance were all signed by Hary Gandy for the Trust, and he signed some of these documents without any title or mention of a trust.

21. The \$10,000 earnest money check for the purchase of this property by the KPST was written on a JP Morgan Chase Bank checking account in the name of Hary Gandy, and the Trust is not referenced on that check.

22. A home warranty policy on the property was issued to Hary Gandy, not KPST.

23. KPST is an irrevocable trust settled on or about July 25, 2008, just 25 days before the Burr Road Residence was purchased by the KPST through Hary Gandy.

24. The Trust agreement defines the corpus of the trust as "Cash, to be transferred outside the jurisdictional boundaries of the United States into an account accessible by the KP Spendthrift Trust and whose proceeds are intended to subsequently be used as determined by the Trustee in

his or her sole discretion to acquire certain real property and improvements for the benefit of the beneficiary”.

25. Hary Gandy is named as the trustee in the Trust agreement, and he is a defacto beneficiary of the Trust.

26. IRS records show that an Employer Identification Number, XX-XXX-0525, was assigned to KPST in August 2008, and the current address of record for the KPST is 151 Elizabeth Road, San Antonio, Texas 78209. This address is Hary Gandy’s prior residential address, and that property was previously owned by James Gandy, Hary Gandy’s brother. No IRS Forms 1041, federal trust income tax returns, have ever been filed by KPST with the IRS.

27. KPST is a sham entity created by Hary Gandy to disguise his ownership of the Burr Road Residence, and to attempt to place that asset outside the reach of the U.S. Government.

28. On February 14, 2014, an IRS summons for records and testimony was served on Hary Gandy, by affixing it to the front door of the residence. On March 19, 2014, Elizabeth Copeland, Hary Gandy’s attorney, acknowledged receipt of the summons, and advised IRS that Mr. Gandy had moved out of the Burr Road Residence and relocated to Canada.

29. Mr. Gandy was also summonsed by the IRS to appear at the IRS Office on March 21, 2014; however, Ms. Copeland appeared for him instead, and provided a binder of records to the IRS. The records produced by Ms. Copeland indicated that the majority of Mr. Gandy’s offshore accounts had been depleted, but Ms. Copeland could not explain how the funds were used. Mr. Gandy did appear at the San Antonio office of the IRS on May 12, 2014, with Ms. Copeland and attorney Farley Katz, but Mr. Gandy then refused to answer questions asked by the IRS on advice of counsel. Mr. Gandy exercised his Fifth Amendment privilege on every question asked of him by the IRS at this meeting.

30. Hary Gandy exercises full dominion and control over the Burr Road Residence. He also pays the ad valorem taxes pertaining to the residence, and all other expenses pertaining to the residence.

COUNT I
REDUCE TAX ASSESSMENTS TO JUDGMENT

31. Despite assessment, notice, and demand for payment of the above-described tax liabilities, Hary Gandy has failed, refused or neglected to fully pay those liabilities. Accordingly, pursuant to 26 U.S.C. § 7402, the United States requests a judgment that Hary Gandy is liable and indebted to the United States of America in the sum of **\$4,902,205.95**, for his 2007 and 2008 income (Form 1040) tax and 2007 civil penalty (OVDI), plus penalties, statutory additions, and additional prejudgment and post-judgment interest from March 15, 2018 until paid, pursuant to 28 U.S.C. § 1961(c)(1); and 26 U.S.C. §§ 6601, 6621(a)(2), and 6622.

COUNT II
FORECLOSE FEDERAL TAX LIENS AGAINST BURR ROAD RESIDENCE

32. The Burr Road Residence is the subject of this action, is described above, and is currently titled to the KP Spendthrift Trust, a sham trust established and controlled by Hary Gandy. Pursuant to 26 U.S.C. §§ 6321 and 6322, statutory federal tax liens arose in favor of the plaintiff, United States of America, against all property and rights to property, whether real or personal, belonging to Gandy, as of the dates of the tax assessments described above, or acquired thereafter.

33. The KP Spendthrift Trust is a self-settled trust established by Hary Gandy in an attempt to prevent the United States from collecting his federal tax debts. Federal tax liens filed against Mr. Gandy and the Trust attach to Gandy's interest in the Trust and the Burr Road Residence.

34. Accordingly, pursuant to 26 U.S.C. § 7403, the United States is entitled to a judgment against Hary Gandy, the KP Spendthrift Trust, and other defendants foreclosing the tax liens against Gandy and the Trust, and ordering the Burr Road Residence sold in partial payment of the federal tax assessments against Hary Gandy. The United States also asks the Court to determine the interests of the other defendants, if any, in the residence.

COUNT III
DETERMINE THAT THE TRUST IS THE ALTER EGO OR NOMINEE OF
HARY GANDY AND THAT HE IS THE TRUE OWNER OF THE BURR
ROAD RESIDENCE; ALTERNATIVELY, THAT GANDY FRAUDULENTLY
CONCEALED THE BURR ROAD RESIDENCE IN THE TRUST

35. After Hary Gandy was indebted for over two million dollars in federal tax liabilities referred to above, he established the KP Spendthrift Trust, purchased the Burr Road Residence, titled it to the KP Spendthrift Trust, and he was its original trustee. After Hary Gandy purchased the residence and titled it to the Trust, he paid all expenses associated with the residence, lived there, and controlled it. He also paid the ad valorem taxes on the Burr Road Residence.

36. Hary Gandy is the person insured by a home warranty policy for the Burr Road Residence, and on information and belief, he rather than the trust is collecting rents from the property.

A. Sham Trust/Alter Ego/Nominee

37. The United States requests that the Court find that the Trust is a nominee or alter ego of Hary Gandy, and find that Gandy is the true owner of the Burr Road Residence. The Trust simply exists to hold title to Gandy's residence and to prevent the United States from seizing it to collect Gandy's massive federal tax debt. Accordingly, the United States is entitled to a judgment that

KP Spendthrift Trust, is a sham, is the alter ego of Hary Gandy, or is the nominee of Hary Gandy such that Burr Road Residence is encumbered by the federal tax liens against Gandy and the Trust.

B. Fraudulent Transfer/Concealment

38. The establishment by Hary Gandy of the Trust, the purchase by Gandy of the Burr Road Residence, the transfer of Gandy's funds into the purchase of the residence, and Gandy's concealment of the residence in the name of the Trust, were intended to hinder, delay, or defraud the United States of taxes due.

39. Pursuant to § 24.005 of the Texas Uniform Fraudulent Transfer Act ("TUFTA"), Chapter 24 of the Texas Business and Commerce Code, Gandy's transfer of funds into the purchase of the residence and concealment of the residence in the name of the Trust, were fraudulent acts, and were of no effect as to the United States, who was a creditor of Gandy when the transfer and concealment occurred.

40. Gandy's transfer of funds into the purchase of the residence by the Trust was made without receiving reasonably equivalent value in exchange for the transfer. Therefore, pursuant to § 24.005 of the TUFTA, the transfer was fraudulent and of no effect as to the United States, and should be set aside by the Court.

41. Accordingly, the United States is entitled to a judgment setting aside as fraudulent the transfer of Hary Gandy's funds or concealment of title in the residence in the name of the KP Spendthrift Trust, a sham trust, and seeks a judgment extinguishing the interest of the Trust in that residence, and ordering it sold in partial satisfaction of the federal tax debts of Hary Gandy.

WHEREFORE, the United States respectfully requests that this court order, adjudge, and decree:

1. That Hary Gandy is indebted to the United States of America in the amount of **\$4,902,205.95**, for his 2007 and 2008 federal income (Form 1040) tax and 2007 civil penalty (OVDI), plus penalties, statutory additions, and additional prejudgment and post-judgment interest from March 15, 2018 until paid, pursuant to 28 U.S.C. § 1961(c)(1); and 26 U.S.C. §§ 6601, 6621(a)(2), and 6622, and the United States is entitled to a final judgment therefor against Defendant Hary Gandy;

2. That the Court find that the federal tax liens against Gandy and the Trust encumber the Burr Road Residence, that those liens be foreclosed, that the residence be ordered sold by the Internal Revenue Service or a receiver, that the sales proceeds be first applied to the costs of the sale, then any unpaid ad valorem taxes, and that the proceeds then be applied in partial satisfaction of the tax liens of the United States and the federal tax debts of Hary Gandy, after a determination of the interests of the other defendants in the residence, if any;

3. That the KP Spendthrift Trust is a sham, nominee or alter ego of Hary Gandy, and find that Hary Gandy is the true owner of the Burr Road Residence; that the Trust is a self-settled trust of which Gandy is the beneficiary, and it simply exists to hold title to Gandy's residence and to prevent the United States from seizing it to collect Gandy's massive federal tax debt, and the residence be ordered sold to pay Hary Gandy's federal tax debts;

4. That the Court find that the Trust holds its interest in the Burr Road Residence, if any, subject to the federal tax liens against Hary Gandy and the Trust; alternatively, that the Court find that the purchase of the property in the name of the Trust was a fraudulent conveyance or fraudulent concealment and of no effect as to the claims of the United States; that the transfer or concealment

of the residence be set aside as fraudulent; and that the Burr Road Residence be ordered sold to pay Hary Gandy's federal tax debts;

5. That the Court determine the interests, of any, of the judgment lien creditors who are defendants herein;

6. That in the event that the United States avails itself of pre-judgment and post-judgment remedies under Sub-chapter B or C of the Federal Debt Collection Act, then the United States be awarded a surcharge of ten percent (10%) of the amount of Hary Gandy's federal tax debt under 28 U.S.C. § 3011, to cover the cost of the litigation and enforcement of the claim for the debt to be paid by Hary Gandy; and

7. That the United States be awarded other such relief as is just and proper.

Respectfully submitted,

JOHN F. BASH
United States Attorney

/s/ Ramona S. Notinger
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ATTORNEYS FOR UNITED STATES

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Ramona S. Notinger, U.S. Department of Justice, Tax Division
717 N. Harwood Street, Suite 400, Dallas, TX 75201
(214) 880-9766

DEFENDANTS

Hary Gandy, KP Spendthrift, through its Trustee, Melissa Angela Gandy, 937385 Ontario Limited, Patrick O'Connor & Associates, L.P., and TA Associates, L.P.

County of Residence of First Listed Defendant Province-Ontario, Canada
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
26 USC Sections 7401, 7402, and 7403 and 28 USC Sections 1340 and 1345

Brief description of cause:

Reduce tax to judgment and foreclose on real property

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

4,902,205.95

CHECK YES only if demanded in complaint:

JURY DEMAND:

☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

03/19/2018

/s/ Ramona S. Notinger

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example:

U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.